IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No. 80 of 2006

Manoj Narain Agarwal
S/O Late Shri K.N.Agarwal,
R/O Village Turkagori, Tahsil Kichha
P.O. Gokul Nagar, Distt. Udham Singh Nagar.

… **Petitioner.**

Versus

1. State of Uttaranchal through Secretary,
   Department of Revenue.
2. Additional Chief Revenue Commissioner,
   Kumaon Range, Nainital.
3. Km. Meenakshi Agarwal, D/O Late Shri K.N.Agarwal,
   R/O Village Turkagori, Tahsil Kichha,
   P.O. Gokul Nagar, Distt. Udham Singh Nagar.

… **Respondents**

Sri Arvind Vashist, learned counsel for the petitioner.
Sri Nand Prasad learned counsel for the respondent no.1 & 2.
Sri L.P.Naithani & Sri M.S.Pal, learned Senior Advocates assisted by Sri T.A.Khan, Adv. for respondent no.3.

Dated February 13, 2006.
Hon'ble B.S.Verma, J.

Heard Sri Arvind Vashist, learned counsel for the petitioner and Sri Nand Prasad, learned Standing Counsel for State as well as Sri L.P.Naithani and Sri M.S.Pal, learned senior advocates, assisted by Sri T.A. Khan advocate appearing for respondent no.3.

By means of this writ petition, the petitioner has sought a writ, order or direction in the nature of certiorari quashing the impugned order dated 20-01-2006 passed by Additional Chief Revenue Commissioner, Kumaon Range, Nainital, in Revenue Revision No. nil of 2005, Meenakshi Agarwal Vs. Manoj Narain Agarwal.

According to the petitioner, he could not get his land demarcated on account of malicious intention of the respondent no.3, who intends to usurp the share of the petitioner and to

dispossess him. The petitioner filed an application under Section 41 of the Land Revenue Act before the Assistant Collector Udham Singh Nagar, which was registered as Revenue Case No. 5/14 of 1999-2000, who in turn directed Tahsildar Kichha to submit his report vide order dated 5.2.2000. This order was challenged by the respondent no.3 in the Allahabad High Court, which was ultimately dismissed on 12.12.2005 by the High Court with certain directions. Consequently, the petitioner approached the Sub Divisional Officer Udham Singh Nagar, who directed the Tehsildar Kichha. On 23.12.2005, Tehsildar Kichha submitted his report to the S.D.M. and on 24.12.2005, the Sub Divisional Magistrate directed the petitioner to deposit requisite fee for the said purpose. The fee was deposited by he petitioner and Amin concerned was directed to conduct demarcation proceedings. On 14.1.2006, respondent no.3 filed objections before the Sub Divisional Magistrate, which were rejected. Respondent no. 3 again filed objection on 16.1.2006 and 17.1.2006, which too were held to be not maintainable. Ultimately, the Sub Divisional Magistrate passed a detailed order on 21.1.2006 declining the prayer of the respondent no. 3. It is alleged that the respondent no.3 by concealing the true facts approached the Chief Revenue Commissioner and obtained ex-parte status quo order by way of revision on 20-1-2006. It is alleged that the impugned order dated 20-1-2006 is illegal, perverse and against the settled principle of law, which has been obtained just to prolong the demarcation proceedings.

In the course of arguments, the learned counsel for the petitioner submitted that the ends of justice would be served in case a direction is issued to the Additional Chief Revenue Commissioner for expeditious disposal of the revision no. nil of 2005, Km. Meenakshi Agarwal Vs. Manoj Narain Agarwal filed against the order dated 17-01-2006 passed by the Assistant Collector Rudrapur (Udham Singh Nagar).

Considering the facts and circumstances of the case, the Additional Chief Revenue Commissioner is directed to decide the aforesaid revision pending before him expeditiously within a

period of one month from the date of production of certified copy of this order.

With the above observation, the writ petition is disposed of finally.

(B.S.Verma, J.)

13.02.2006
RCP